

AMENDED IN ASSEMBLY APRIL 28, 2010

AMENDED IN ASSEMBLY APRIL 22, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2475

Introduced by Assembly Member Beall

February 19, 2010

An act to add Section 43.94 to the Civil Code, relating to immunity.

LEGISLATIVE COUNSEL'S DIGEST

AB 2475, as amended, Beall. Judicial immunity.

Existing law grants immunity from civil suit to judges for acts performed in the exercise of their judicial functions. Under the concept of quasi-judicial immunity, this absolute judicial immunity has been extended to persons other than judges if those persons act in a judicial or quasi-judicial capacity, including neutral 3rd parties engaged in attempts to settle disputes.

This bill would provide that the doctrine of judicial immunity or quasi-judicial immunity shall not apply to exonerate any *private* 3rd party ~~who is engaged in mediation, conciliation, evaluation, or similar dispute resolution efforts under any statute or contract relating to an action or proceeding under the Family Code from liability for any act performed within that capacity. The bill would apply only to private persons appointed by the courts for their expertise, including mediators, guardians ad litem, therapists, receivers, and bankruptcy trustees, and to persons involved in alternative methods of dispute resolution who function apart from the courts pursuant to private agreement, including mediators, conciliators, evaluators, and marriage and family therapists~~

appointed by the court in an advisory capacity based on his or her professional expertise, who provides a report or findings to the court in a proceeding under the Family Code, with the intention that the court act in one way or another based on the report or findings, from liability for acts performed within the scope of his or her appointment in violation of law, rules of court, or professional standards. The bill would provide for applicable statutes of limitation to be tolled, as specified. This bill would require the Bureau of State Audits to include a dedicated compliance official or division whose function it is to review compliance of family courts and public employees with state-mandated family laws and procedures, and to make recommendations to the Legislature, Governor, and Judicial Council, based thereon.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 43.94 is added to the Civil Code, to read:
2 ~~43.94. (a) The doctrine of judicial immunity or quasi-judicial~~
3 ~~immunity shall not apply to exonerate any third party who is~~
4 ~~engaged in mediation, conciliation, evaluation, or similar dispute~~
5 ~~resolution efforts under any statute or contract relating to an action~~
6 ~~or proceeding under the Family Code from liability for any act~~
7 ~~performed within that capacity.~~
8 ~~(b) This section shall apply only to the following:~~
9 ~~(1) A private person appointed by the courts for his or her~~
10 ~~expertise, including mediators, guardians ad litem, therapists,~~
11 ~~receivers, and bankruptcy trustees.~~
12 ~~(2) A person involved in alternative methods of dispute~~
13 ~~resolution, such as mediation or neutral factfinding, who functions~~
14 ~~apart from the court pursuant to a private agreement, including~~
15 ~~mediators, conciliators, evaluators, and marriage and family~~
16 ~~therapists.~~
17 ~~(c) This section does not apply to any of the following:~~
18 ~~(1) A judicial officer, subordinate judicial officer, or arbitrator.~~
19 ~~(2) An individual employed by the court.~~
20 ~~(3) Any person whose work product comes into the judicial~~
21 ~~process to be used by the court even though he or she was not court~~
22 ~~appointed, such as social workers and probation department~~
23 ~~employees.~~

1 43.94. (a) *The doctrine of judicial immunity or quasi-judicial*
2 *immunity shall not apply to exonerate any private third party*
3 *appointed by the court in an advisory capacity based on his or her*
4 *professional expertise, who provides a report or findings to the*
5 *court in a proceeding under the Family Code, with the intention*
6 *that the court act in one way or another based on the report or*
7 *findings, from liability for acts performed within the scope of his*
8 *or her appointment in violation of law, rules of court, or*
9 *professional standards.*

10 (b) *This section shall apply to private individuals such as special*
11 *masters, minor's counsel, investigators, therapists, evaluators,*
12 *receivers, bankruptcy trustees, experts, factfinders, and other*
13 *persons specifically appointed by the court in an advisory capacity*
14 *based on their professional training or expertise.*

15 (c) *This section does not apply to any judicial officer,*
16 *subordinate judicial officer, arbitrator, or public employee*
17 *protected by the doctrine of judicial immunity or quasi-judicial*
18 *immunity at the time this section was enacted.*

19 (d) *During a civil, criminal, or administrative investigation or*
20 *proceeding in which a court appointee's alleged misconduct, as*
21 *described in subdivision (a), is at issue, any statutes of limitation*
22 *applicable to the underlying, or other related, civil litigation shall*
23 *be tolled.*

24 (e) *Notwithstanding any other law, any applicable statutes of*
25 *limitation shall be tolled in an action for recovery of damages for*
26 *alleged misconduct perpetrated by a court appointee, as described*
27 *in subdivision (a), while the person seeking relief was a minor.*

28 (f) *The Bureau of State Audits shall include a dedicated*
29 *compliance official or division whose function it is to review*
30 *compliance of family courts and public employees with*
31 *state-mandated family laws and procedures and, notwithstanding*
32 *Section 10231.5 of the Government Code, to make*
33 *recommendations to the Legislature, Governor, and Judicial*
34 *Council, based thereon. Recommendations submitted pursuant to*
35 *this subdivision shall be submitted in compliance with Section*
36 *9795 of the Government Code.*